

AMENDED IN SENATE JUNE 22, 2010

AMENDED IN SENATE MAY 3, 2010

AMENDED IN SENATE JULY 23, 2009

AMENDED IN SENATE JUNE 25, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 435

Introduced by Committee on Accountability and Administrative Review (De La Torre (Chair), Audra Strickland (Vice Chair), Arambula, Tom Berryhill, Block, Buchanan, Caballero, Emmerson, Fletcher, Huber, Jones, Bonnie Lowenthal, V. Manuel Perez, and Villines)

February 24, 2009

An act to amend Sections 4514, 4731, and 5328 of, ~~to add Section 4626.1 to,~~ and to add Division 4.8 (commencing with Section 4910) to, the Welfare and Institutions Code, relating to developmental services.

LEGISLATIVE COUNSEL'S DIGEST

AB 435, as amended, Committee on Accountability and Administrative Review. Regional centers: whistleblower protection: related-party transactions.

Existing law, the Lanterman Developmental Disabilities Services Act, requires the State Department of Developmental Services to allocate funds to private nonprofit regional centers for the provision of community services and support for persons with developmental disabilities and their families. Existing law sets forth the duties of

regional centers, including, but not limited to, development of individual program plans, the purchase of needed services *and supports* to implement the plan, and the monitoring of services.

Existing law authorizes the department to adopt and enforce conflict-of-interest regulations to ensure that members of the governing board, program policy committees, and employees of regional centers make decisions that are in the best interest of consumers and the families of consumers.

~~This bill would require a regional center to disclose on its Internet Web site specified information regarding related person transactions, as defined, on a quarterly basis, keep a log of that information for a period of 3 years after termination of the regional center contract, and provide that information to the public upon request.~~

Existing law, the California Whistleblower Protection Act, sets forth the circumstances and procedures under which a state employee, as defined, may report improper governmental activities, as defined, or make a protected disclosure, as defined, to the State Auditor, and prohibits retaliation or reprisal against a state employee for these acts.

This bill would enact the Regional Center Whistleblower Protection Act, providing similar protections for regional center employees who report improper regional center activities, as defined, or make a protected disclosure, as defined, to the department or the Legislature. It would require the department to investigate complaints under these provisions, and would require remedial actions to be taken by regional centers when appropriate. The bill would establish a private cause of action to enforce these provisions. It would require that if a copy of a complaint filed with the employee's supervisor, manager, or regional center director is also filed with the department, the copy shall include a sworn statement, signed under penalty of perjury, that the facts are true, or believed to be true. By changing the definition of a crime, the bill would create a state-mandated local program. The bill would make certain acts of reprisal a crime, thereby imposing a state-mandated local program.

Existing law requires that specified information and records obtained in the course of intake, assessment, and the provision of services for persons with developmental disabilities and the provision of voluntary or involuntary services to persons with a mental illnesses remain confidential, with certain specified exceptions.

This bill would allow the release of the above information to the department for purposes of conducting an investigation pursuant to the bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4514 of the Welfare and Institutions Code
2 is amended to read:

3 4514. All information and records obtained in the course of
4 providing intake, assessment, and services under Division 4.1
5 (commencing with Section 4400), Division 4.5 (commencing with
6 Section 4500), Division 6 (commencing with Section 6000), or
7 Division 7 (commencing with Section 7100) to persons with
8 developmental disabilities shall be confidential. Information and
9 records obtained in the course of providing similar services to
10 either voluntary or involuntary recipients prior to 1969 shall also
11 be confidential. Information and records shall be disclosed only
12 in any of the following cases:

13 (a) In communications between qualified professional persons,
14 whether employed by a regional center or state developmental
15 center, or not, in the provision of intake, assessment, and services
16 or appropriate referrals. The consent of the person with a
17 developmental disability, or his or her guardian or conservator,
18 shall be obtained before information or records may be disclosed
19 by regional center or state developmental center personnel to a
20 professional not employed by the regional center or state
21 developmental center, or a program not vendored by a regional
22 center or state developmental center.

23 (b) When the person with a developmental disability, who has
24 the capacity to give informed consent, designates individuals to
25 whom information or records may be released, except that nothing
26 in this chapter shall be construed to compel a physician,
27 psychologist, social worker, marriage and family therapist, nurse,
28 attorney, or other professional to reveal information that has been
29 given to him or her in confidence by a family member of the person
30 unless a valid release has been executed by that family member.

1 (c) To the extent necessary for a claim, or for a claim or
2 application to be made on behalf of a person with a developmental
3 disability for aid, insurance, government benefit, or medical
4 assistance to which he or she may be entitled.

5 (d) If the person with a developmental disability is a minor,
6 ward, or conservatee, and his or her parent, guardian, conservator,
7 or limited conservator with access to confidential records,
8 designates, in writing, persons to whom records or information
9 may be disclosed, except that nothing in this chapter shall be
10 construed to compel a physician, psychologist, social worker,
11 marriage and family therapist, nurse, attorney, or other professional
12 to reveal information that has been given to him or her in
13 confidence by a family member of the person unless a valid release
14 has been executed by that family member.

15 (e) For research, provided that the Director of Developmental
16 Services designates by regulation rules for the conduct of research
17 and requires the research to be first reviewed by the appropriate
18 institutional review board or boards. These rules shall include, but
19 need not be limited to, the requirement that all researchers shall
20 sign an oath of confidentiality as follows:

21
22
23 “ _____
24 Date

25
26 As a condition of doing research concerning persons with
27 developmental disabilities who have received services from ____
28 (fill in the facility, agency or person), I, ____, agree to obtain the
29 prior informed consent of persons who have received services to
30 the maximum degree possible as determined by the appropriate
31 institutional review board or boards for protection of human
32 subjects reviewing my research, or the person’s parent, guardian,
33 or conservator, and I further agree not to divulge any information
34 obtained in the course of the research to unauthorized persons, and
35 not to publish or otherwise make public any information regarding
36 persons who have received services so those persons who received
37 services are identifiable.

38 I recognize that the unauthorized release of confidential
39 information may make me subject to a civil action under provisions
40 of the Welfare and Institutions Code.

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Signed

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Committee on Rules or the Assembly Committee on Rules for the purposes of legislative investigation authorized by the committee.

(i) To the courts and designated parties as part of a regional center report or assessment in compliance with a statutory or regulatory requirement, including, but not limited to, Section 1827.5 of the Probate Code, Sections 1001.22 and 1370.1 of the Penal Code, Section 6502 of the Welfare and Institutions Code, and Section 56557 of Title 17 of the California Code of Regulations.

(j) To the attorney for the person with a developmental disability in any and all proceedings upon presentation of a release of information signed by the person, except that when the person lacks the capacity to give informed consent, the regional center or state developmental center director or designee, upon satisfying himself or herself of the identity of the attorney, and of the fact that the attorney represents the person, shall release all information and records relating to the person except that nothing in this article shall be construed to compel a physician, psychologist, social worker, marriage and family therapist, nurse, attorney, or other professional to reveal information that has been given to him or her in confidence by a family member of the person unless a valid release has been executed by that family member.

(k) Upon written consent by a person with a developmental disability previously or presently receiving services from a regional center or state developmental center, the director of the regional center or state developmental center, or his or her designee, may release any information, except information that has been given in confidence by members of the family of the person with developmental disabilities, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the regional center or state developmental center director

1 or designee determines that the information is relevant to the
2 evaluation. The consent shall only be operative until sentence is
3 passed on the crime of which the person was convicted. The
4 confidential information released pursuant to this subdivision shall
5 be transmitted to the court separately from the probation report
6 and shall not be placed in the probation report. The confidential
7 information shall remain confidential except for purposes of
8 sentencing. After sentencing, the confidential information shall be
9 sealed.

10 (l) Between persons who are trained and qualified to serve on
11 “multidisciplinary personnel” teams pursuant to subdivision (d)
12 of Section 18951. The information and records sought to be
13 disclosed shall be relevant to the prevention, identification,
14 management, or treatment of an abused child and his or her parents
15 pursuant to Chapter 11 (commencing with Section 18950) of Part
16 6 of Division 9.

17 (m) When a person with a developmental disability dies from
18 any cause, natural or otherwise, while hospitalized in a state
19 developmental center, the State Department of Developmental
20 Services, the physician in charge of the client, or the professional
21 in charge of the facility or his or her designee, shall release
22 information and records to the coroner. The State Department of
23 Developmental Services, the physician in charge of the client, or
24 the professional in charge of the facility or his or her designee,
25 shall not release any notes, summaries, transcripts, tapes, or records
26 of conversations between the resident and health professional
27 personnel of the hospital relating to the personal life of the resident
28 that is not related to the diagnosis and treatment of the resident’s
29 physical condition. Any information released to the coroner
30 pursuant to this section shall remain confidential and shall be sealed
31 and shall not be made part of the public record.

32 (n) To authorized licensing personnel who are employed by, or
33 who are authorized representatives of, the State Department of
34 Health Services, and who are licensed or registered health
35 professionals, and to authorized legal staff or special investigators
36 who are peace officers who are employed by, or who are authorized
37 representatives of, the State Department of Social Services, as
38 necessary to the performance of their duties to inspect, license,
39 and investigate health facilities and community care facilities, and
40 to ensure that the standards of care and services provided in these

1 facilities are adequate and appropriate and to ascertain compliance
2 with the rules and regulations to which the facility is subject. The
3 confidential information shall remain confidential except for
4 purposes of inspection, licensing, or investigation pursuant to
5 Chapter 2 (commencing with Section 1250) and Chapter 3
6 (commencing with Section 1500) of Division 2 of the Health and
7 Safety Code, or a criminal, civil, or administrative proceeding in
8 relation thereto. The confidential information may be used by the
9 State Department of Health Services or the State Department of
10 Social Services in a criminal, civil, or administrative proceeding.
11 The confidential information shall be available only to the judge
12 or hearing officer and to the parties to the case. Names which are
13 confidential shall be listed in attachments separate to the general
14 pleadings. The confidential information shall be sealed after the
15 conclusion of the criminal, civil, or administrative hearings, and
16 shall not subsequently be released except in accordance with this
17 subdivision. If the confidential information does not result in a
18 criminal, civil, or administrative proceeding, it shall be sealed after
19 the State Department of Health Services or the State Department
20 of Social Services decides that no further action will be taken in
21 the matter of suspected licensing violations. Except as otherwise
22 provided in this subdivision, confidential information in the
23 possession of the State Department of Health Services or the State
24 Department of Social Services shall not contain the name of the
25 person with a developmental disability.

26 (o) To any board which licenses and certifies professionals in
27 the fields of mental health and developmental disabilities pursuant
28 to state law, when the Director of Developmental Services has
29 reasonable cause to believe that there has occurred a violation of
30 any provision of law subject to the jurisdiction of a board and the
31 records are relevant to the violation. The information shall be
32 sealed after a decision is reached in the matter of the suspected
33 violation, and shall not subsequently be released except in
34 accordance with this subdivision. Confidential information in the
35 possession of the board shall not contain the name of the person
36 with a developmental disability.

37 (p) To governmental law enforcement agencies by the director
38 of a regional center or state developmental center, or his or her
39 designee, when (1) the person with a developmental disability has
40 been reported lost or missing or (2) there is probable cause to

1 believe that a person with a developmental disability has
2 committed, or has been the victim of, murder, manslaughter,
3 mayhem, aggravated mayhem, kidnapping, robbery, carjacking,
4 assault with the intent to commit a felony, arson, extortion, rape,
5 forcible sodomy, forcible oral copulation, assault or battery, or
6 unlawful possession of a weapon, as provided in Section 12020
7 of the Penal Code.

8 This subdivision shall be limited solely to information directly
9 relating to the factual circumstances of the commission of the
10 enumerated offenses and shall not include any information relating
11 to the mental state of the patient or the circumstances of his or her
12 treatment unless relevant to the crime involved.

13 This subdivision shall not be construed as an exception to, or in
14 any other way affecting, the provisions of Article 7 (commencing
15 with Section 1010) of Chapter 4 of Division 8 of the Evidence
16 Code, or Chapter 11 (commencing with Section 15600) and
17 Chapter 13 (commencing with Section 15750) of Part 3 of Division
18 9.

19 (q) To the Youth Authority and Adult Correctional Agency or
20 any component thereof, as necessary to the administration of
21 justice.

22 (r) To an agency mandated to investigate a report of abuse filed
23 pursuant to either Section 11164 of the Penal Code or Section
24 15630 of the Welfare and Institutions Code for the purposes of
25 either a mandated or voluntary report or when those agencies
26 request information in the course of conducting their investigation.

27 (s) When a person with developmental disabilities, or the parent,
28 guardian, or conservator of a person with developmental disabilities
29 who lacks capacity to consent, fails to grant or deny a request by
30 a regional center or state developmental center to release
31 information or records relating to the person with developmental
32 disabilities within a reasonable period of time, the director of the
33 regional or developmental center, or his or her designee, may
34 release information or records on behalf of that person provided
35 both of the following conditions are met:

36 (1) Release of the information or records is deemed necessary
37 to protect the person's health, safety, or welfare.

38 (2) The person, or the person's parent, guardian, or conservator,
39 has been advised annually in writing of the policy of the regional
40 center or state developmental center for release of confidential

1 client information or records when the person with developmental
2 disabilities, or the person's parent, guardian, or conservator, fails
3 to respond to a request for release of the information or records
4 within a reasonable period of time. A statement of policy contained
5 in the client's individual program plan shall be deemed to comply
6 with the notice requirement of this paragraph.

7 (t) (1) When an employee is served with a notice of adverse
8 action, as defined in Section 19570 of the Government Code, the
9 following information and records may be released:

10 (A) All information and records that the appointing authority
11 relied upon in issuing the notice of adverse action.

12 (B) All other information and records that are relevant to the
13 adverse action, or that would constitute relevant evidence as
14 defined in Section 210 of the Evidence Code.

15 (C) The information described in subparagraphs (A) and (B)
16 may be released only if both of the following conditions are met:

17 (i) The appointing authority has provided written notice to the
18 consumer and the consumer's legal representative or, if the
19 consumer has no legal representative or if the legal representative
20 is a state agency, to the clients' rights advocate, and the consumer,
21 the consumer's legal representative, or the clients' rights advocate
22 has not objected in writing to the appointing authority within five
23 business days of receipt of the notice, or the appointing authority,
24 upon review of the objection has determined that the circumstances
25 on which the adverse action is based are egregious or threaten the
26 health, safety, or life of the consumer or other consumers and
27 without the information the adverse action could not be taken.

28 (ii) The appointing authority, the person against whom the
29 adverse action has been taken, and the person's representative, if
30 any, have entered into a stipulation that does all of the following:

31 (I) Prohibits the parties from disclosing or using the information
32 or records for any purpose other than the proceedings for which
33 the information or records were requested or provided.

34 (II) Requires the employee and the employee's legal
35 representative to return to the appointing authority all records
36 provided to them under this subdivision, including, but not limited
37 to, all records and documents or copies thereof that are no longer
38 in the possession of the employee or the employee's legal
39 representative because they were from any source containing
40 confidential information protected by this section, and all copies

1 of those records and documents, within 10 days of the date that
2 the adverse action becomes final except for the actual records and
3 documents submitted to the administrative tribunal as a component
4 of an appeal from the adverse action.

5 (III) Requires the parties to submit the stipulation to the
6 administrative tribunal with jurisdiction over the adverse action
7 at the earliest possible opportunity.

8 (2) For the purposes of this subdivision, the State Personnel
9 Board may, prior to any appeal from adverse action being filed
10 with it, issue a protective order, upon application by the appointing
11 authority, for the limited purpose of prohibiting the parties from
12 disclosing or using information or records for any purpose other
13 than the proceeding for which the information or records were
14 requested or provided, and to require the employee or the
15 employee's legal representative to return to the appointing authority
16 all records provided to them under this subdivision, including, but
17 not limited to, all records and documents from any source
18 containing confidential information protected by this section, and
19 all copies of those records and documents, within 10 days of the
20 date that the adverse action becomes final, except for the actual
21 records and documents that are no longer in the possession of the
22 employee or the employee's legal representatives because they
23 were submitted to the administrative tribunal as a component of
24 an appeal from the adverse action.

25 (3) Individual identifiers, including, but not limited to, names,
26 social security numbers, and hospital numbers, that are not
27 necessary for the prosecution or defense of the adverse action,
28 shall not be disclosed.

29 (4) All records, documents, or other materials containing
30 confidential information protected by this section that have been
31 submitted or otherwise disclosed to the administrative agency or
32 other person as a component of an appeal from an adverse action
33 shall, upon proper motion by the appointing authority to the
34 administrative tribunal, be placed under administrative seal and
35 shall not, thereafter, be subject to disclosure to any person or entity
36 except upon the issuance of an order of a court of competent
37 jurisdiction.

38 (5) For purposes of this subdivision, an adverse action becomes
39 final when the employee fails to answer within the time specified
40 in Section 19575 of the Government Code, or, after filing an

1 answer, withdraws the appeal, or, upon exhaustion of the
2 administrative appeal or of the judicial review remedies as
3 otherwise provided by law.

4 (u) To the department, for the purpose of conducting an
5 investigation authorized by Division 4.8 (commencing with Section
6 4910).

7 ~~SEC. 2.—Section 4626.1 is added to the Welfare and Institutions~~
8 ~~Code, to read:~~

9 ~~4626.1. (a) For purposes of this section, the following terms~~
10 ~~shall have the following meanings:~~

11 ~~(1) “Financial interest” means that it is reasonably foreseeable~~
12 ~~that a decision will have a material financial effect, distinguishable~~
13 ~~from its effect on the public generally, on a regional center~~
14 ~~executive director or a member of the board of directors, or his or~~
15 ~~her family, including any of the following situations:~~

16 ~~(A) The issue involves a business entity in which the regional~~
17 ~~center executive director or a member of the board of directors~~
18 ~~has a direct or indirect investment worth two thousand dollars~~
19 ~~(\$2,000) or more.~~

20 ~~(B) The issue involves real property in which the regional center~~
21 ~~executive director or a member of the board of directors has a~~
22 ~~direct or indirect interest worth two thousand dollars (\$2,000) or~~
23 ~~more.~~

24 ~~(C) The issue involves a source of income, except gifts or loans~~
25 ~~by a commercial lending institution made in the regular course of~~
26 ~~business on terms available to the public without regard to official~~
27 ~~status, aggregating five hundred dollars (\$500) or more in value~~
28 ~~provided to, promised to, or received by, a regional center executive~~
29 ~~director or a member of the board of directors within 12 months~~
30 ~~prior to the time when the decision is made.~~

31 ~~(D) The issues involves a business entity in which the regional~~
32 ~~center executive director or a member of the board of directors is~~
33 ~~a director, officer, partner, trustee, employee, or holds a position~~
34 ~~of management.~~

35 For purposes of this paragraph, “indirect investment or interest”
36 means an investment or interest owned by the spouse or dependent
37 child of a regional center executive director or a member of the
38 board of directors, by an agent on behalf of a regional center
39 executive director or a member of the board of directors, or by a
40 business entity or trust in which the regional center executive

1 director or a member of the board of directors, his or her agents,
2 spouse, and dependent children own, directly, indirectly, or
3 beneficially, a 10-percent or greater interest.

4 (2) “Related person” means a person who was in any of the
5 following categories at a time during the specified period for which
6 disclosure is required pursuant to subdivision (b):

7 (A) A director or officer of the regional center.

8 (B) A nominee for director.

9 (C) A family member of a director or officer of the regional
10 center or any nominee for director, which means a child, stepchild,
11 parent, stepparent, spouse, sibling, mother-in-law, father-in-law,
12 son-in-law, daughter-in-law, brother-in-law, or sister-in-law of the
13 director, officer, or director nominee.

14 (D) A person, other than a tenant or employee, sharing the
15 household of the director, officer, or director nominee.

16 (3) “Related-person transaction” means a transaction in which
17 the regional center was or is to be a participant and in which a
18 related person had or will have a direct or indirect financial interest.

19 (4) “Transaction” includes, but is not limited to, a financial
20 transaction, arrangement or relationship, including an indebtedness
21 or guarantee of indebtedness, or a series of similar transactions,
22 arrangements, or relationships.

23 (b) Within 30 days following the last day of each of its fiscal
24 quarters, a regional center shall disclose on its Internet Web site
25 the following information, regarding each related-person
26 transaction that occurred during that quarter:

27 (1) The name of the related person and the basis on which the
28 person is a related person.

29 (2) The related person’s interest in the transaction with the
30 regional center, including the related person’s position or
31 relationship with, or ownership in, a firm, corporation, or other
32 entity that is a party to, or has an interest in, the transaction.

33 (3) The approximate dollar value of the amount involved in the
34 transaction.

35 (4) The approximate dollar value of the related person’s interest
36 in the transaction, which shall be computed without regard to the
37 amount of profit or loss.

38 (5) In the case of indebtedness, disclosure of the amount
39 involved in the transaction shall include the largest aggregate
40 amount of principal outstanding during the period for which

1 disclosure is provided, the amount outstanding as of the latest
2 practicable date, the amount of principal paid during the quarter,
3 the amount of interest paid during the quarter, and the rate or
4 amount of interest payable on the indebtedness.

5 (6) Any other information regarding the transaction or the related
6 person in the context of the transaction that is material to the public
7 in light of the circumstances of the particular transaction.

8 (e) The department shall post a link to each regional center's
9 disclosure information pursuant to subdivision (b) on the
10 department's Internet Web Site.

11 (d) The information set forth in subdivision (b) shall remain on
12 the regional center's Internet Web site for a 12-month period. The
13 regional center shall keep a log of the quarterly disclosures required
14 pursuant to subdivision (b) for a period of three years after the
15 regional center contract has terminated and shall make the
16 information available upon request to a member of the public.

17 (e) Regional centers shall implement this section through
18 existing resources.

19 ~~SEC. 3.~~

20 *SEC. 2.* Section 4731 of the Welfare and Institutions Code is
21 amended to read:

22 4731. (a) Each consumer or any representative acting on behalf
23 of any consumer or consumers, who believes that any right to
24 which a consumer is entitled has been abused, punitively withheld,
25 or improperly or unreasonably denied by a regional center,
26 developmental center, or service provider, may pursue a complaint
27 as provided in this section.

28 (b) Initial referral of any complaint taken pursuant to this section
29 shall be to the director of the regional center from which the
30 consumer receives case management services. If the consumer
31 resides in a state developmental center, the complaint shall be
32 made to the director of that state developmental center. The director
33 shall, within 20 working days of receiving a complaint, investigate
34 the complaint and send a written proposed resolution to the
35 complainant and, if applicable, to the service provider. The written
36 proposed resolution shall include a telephone number and mailing
37 address for referring the proposed resolution in accordance with
38 subdivision (c).

39 (c) If the complainant is not satisfied with the proposed
40 resolution, the complainant may refer the complaint, in writing,

1 to the Director of Developmental Services within 15 working days
2 of receipt of the proposed resolution. The director shall, within 45
3 days of receiving a complaint, issue a written administrative
4 decision and send a copy of the decision to the complainant, the
5 director of the regional center or state developmental center, and
6 the service provider, if applicable. If there is no referral to the
7 department, the proposed resolution shall become effective on the
8 20th working day following receipt by the complainant.

9 (d) The department shall annually compile the number of
10 complaints filed, by each regional center and state developmental
11 center catchment area, the subject matter of each complaint, and
12 a summary of each decision. Copies shall be made available to
13 any person upon request.

14 (e) This section shall not be used to resolve disputes concerning
15 the nature, scope, or amount of services and supports that should
16 be included in an individual program plan, for which there is an
17 appeal procedure established in this division, or disputes regarding
18 rates or audit appeals for which there is an appeal procedure
19 established in regulations. Those disputes shall be resolved through
20 the appeals procedure established by this division or in regulations.

21 (f) All consumers or, where appropriate, their parents, legal
22 guardian, conservator, or authorized representative, shall be notified
23 in writing in a language which they comprehend, of the right to
24 file a complaint pursuant to this section when they apply for
25 services from a regional center or are admitted to a developmental
26 center, and at each regularly scheduled planning meeting.

27 (g) No individual employed by, holding office in, or serving as
28 a governing board member of, a regional center shall be subject
29 to reprisal or harassment for, or directly or indirectly be threatened
30 with any action that would prevent him or her from, assisting a
31 consumer or consumer representative from pursuing a complaint
32 under this section.

33 ~~SEC. 4.~~

34 *SEC. 3.* Division 4.8 (commencing with Section 4910) is added
35 to the Welfare and Institutions Code, to read:

DIVISION 4.8. REGIONAL CENTER WHISTLEBLOWER
PROTECTION ACT

4910. This division shall be known, and may be cited, as the
“Regional Center Whistleblower Protection Act.”

4911. For purposes of this division:

(a) “Illegal order” means a directive to violate or assist in
violating a federal, state, or local law, rule, or regulation or an
order to work or cause others to work in conditions outside of their
line of duty that would unreasonably threaten the health or safety
of employees or the public.

(b) (1) “Improper regional center activity” means an activity
by a regional center or by an employee, officer, or board member
of a regional center that is undertaken in the performance of his
or her official duties, whether or not that action is within the scope
of his or her employment, and that (A) is in violation of a state or
federal law or regulation, including, but not limited to, corruption,
malfeasance, bribery, theft of government property, fraudulent
claims, fraud, coercion, conversion, malicious prosecution, misuse
of government property, or willful omission to perform duty, or
(B) involves gross misconduct or incompetency. “Improper
regional center activity” also includes an intentional failure of an
employee, officer, or board member of a regional center to comply
with any provision of this division.

(2) Notwithstanding paragraph (1), “improper regional center
activity” does not include a decision or action by a regional center
that is subject to the fair hearing procedure specified in Article 3
(commencing with Section 4710) of Chapter 7 of Division 4.5
related to the nature, scope, or amount of services included in an
individual consumer’s individual program plan.

(c) “Person” means an individual, corporation, partnership,
limited liability company, trust, association, state or local
government, or an agency or instrumentality of any of the
foregoing.

(d) “Protected disclosure” means a good faith communication
that discloses or demonstrates an intention to disclose to the
department or the Legislature information that may evidence either
of the following:

(1) An improper regional center activity.

1 (2) A condition that may significantly threaten the health or
2 safety of employees or the public if the disclosure or intention to
3 disclose was made for the purpose of remedying that condition.

4 4912. (a) An employee, officer, or board member of a regional
5 center shall not directly or indirectly use or attempt to use his or
6 her official authority or influence for the purpose of intimidating,
7 threatening, coercing, commanding, or attempting to intimidate,
8 threaten, coerce, or command any person for the purpose of
9 interfering with the rights conferred pursuant to this division.

10 (b) For the purpose of subdivision (a), “use the official authority
11 or influence” shall include any of the following:

12 (1) Promising to confer, or conferring, a benefit.

13 (2) Effecting, or threatening to effect, a reprisal.

14 (3) Taking, or directing others to take, or recommending,
15 processing, or approving, a personnel action, including, but not
16 limited to, appointment, promotion, transfer, assignment,
17 performance evaluation, suspension, or other disciplinary action.

18 (c) An employee, officer, or board member of a regional center
19 who violates subdivision (a) may be liable in an action for civil
20 damages brought against him or her by the offended party.

21 (d) Nothing in this section shall be construed to authorize an
22 individual to disclose information otherwise prohibited by or under
23 law.

24 (e) Nothing in this division shall be construed to prohibit any
25 type of financial transaction by an employee, an officer, or a board
26 member of a regional center.

27 4913. (a) Except as expressly set forth in this division, the
28 department shall administer this division and shall investigate and
29 report, as set forth in this section, regarding improper regional
30 center activities.

31 (b) Upon receiving specific information that an improper
32 regional center activity has occurred, the department shall
33 investigate and may, if necessary, conduct a full investigative audit
34 of the matter. The identity of the person providing the information
35 that initiated the investigation shall not be disclosed without the
36 written permission of the person providing the information unless
37 the disclosure is to a law enforcement agency that is conducting
38 a criminal investigation.

39 (c) If the department determines that there is reasonable cause
40 to believe that an improper regional center activity has occurred,

1 the department shall report the nature and details of the activity to
2 the regional center director.

3 (d) If, after investigating, the department finds that an improper
4 regional center activity has occurred, the department shall send a
5 copy of the investigative report to the regional center. Within 30
6 days after receiving a copy of the department's investigative report,
7 the regional center shall either serve a notice of personnel action
8 upon the employee or employees who are the subject of the
9 investigative report or set forth in writing its reasons for not taking
10 personnel action. The regional center shall submit a copy of the
11 notice of personnel action to the department. If the focus of the
12 investigative report is a policy or procedure, instead of an
13 employee, the regional center shall, within 30 days after receiving
14 a copy of the department's investigative report, submit a plan of
15 corrective action to the department.

16 (e) The department shall report the outcome of the investigation
17 to the policy committees of the Senate and Assembly having
18 jurisdiction over regional centers, to the Assembly Committee on
19 Accountability and Administrative Review, and to any other
20 committee or authority that the department determines appropriate.
21 If the department reasonably believes that the investigative report
22 may involve criminal actions, the department shall also report this
23 information to the Attorney General.

24 4914. The department may request the assistance of a state
25 department, agency, or employee in conducting an investigative
26 audit required by this division. No information obtained from the
27 department, agency, or employee as a result of the department's
28 request for assistance, nor any information obtained thereafter as
29 a result of further investigation, shall be divulged or made known
30 to a person without the prior approval of the department.

31 4915. (a) In a case in which the department submits a report
32 of alleged improper regional center activity to the regional center
33 director, the regional center director shall report to the department
34 with respect to the action taken by the individual regarding the
35 activity, the first report being transmitted within 30 days after the
36 date of the department's report and monthly thereafter until final
37 action has been taken.

38 (b) Every investigation shall be kept confidential, except that,
39 notwithstanding Sections 4514 and 5328, the department shall
40 issue a report of an investigation that has been substantiated,

1 keeping confidential the identity of the individual or individuals
2 who provided information that initiated the investigation and
3 maintaining the confidentiality of the consumer or consumers of
4 regional center services that may have been involved. The
5 department shall only release findings resulting from an
6 investigation conducted pursuant to this division that are deemed
7 necessary to serve the interests of the state.

8 (c) Notwithstanding any other law, including, but not limited
9 to, Section 4914, this division shall not limit the authority conferred
10 upon the Attorney General or any state or local entity to investigate
11 any matter.

12 4916. (a) An employee who files a written complaint with his
13 or her supervisor, manager, or the regional center alleging actual
14 or attempted acts of reprisal, retaliation, threats, coercion, or similar
15 improper acts prohibited by this division, may also file a copy of
16 the written complaint with the department. A copy of the complaint
17 filed with the department shall also include a sworn statement that
18 the contents of the written complaint are true, or are believed by
19 the affiant to be true, signed under penalty of perjury. The
20 complaint filed with the department shall be filed within 12 months
21 of the most recent act of reprisal complained of.

22 (b) A person who intentionally engages in acts of reprisal,
23 retaliation, threats, coercion, or similar acts against a regional
24 center employee for having made a protected disclosure, is subject
25 to a fine not to exceed ten thousand dollars (\$10,000) and
26 imprisonment in the county jail for a period not to exceed one year.

27 (c) In addition to all other penalties provided by law, a person
28 who intentionally engages in acts of reprisal, retaliation, threats,
29 coercion, or similar acts against a regional center employee for
30 having made a protected disclosure shall be liable in an action for
31 damages brought against him or her by the injured party. Punitive
32 damages may be awarded by the court where the acts of the
33 offending party are proven to be malicious. However, an action
34 for damages shall not be available to the injured party unless the
35 injured party has first filed a complaint with the department
36 pursuant to subdivision (a), and the department has issued, or failed
37 to issue, findings. Where liability has been established, the injured
38 party shall also be entitled to reasonable attorney's fees as provided
39 by law.

1 (d) This section is not intended to prevent a regional center,
2 manager, or supervisor from taking, directing others to take,
3 recommending, or approving a personnel action or from taking or
4 failing to take a personnel action with respect to an employee if
5 the regional center, manager, or supervisor reasonably believes
6 the action or inaction is justified on the basis of evidence separate
7 and apart from the fact that the person has made a protected
8 disclosure.

9 (e) In a civil action or administrative proceeding, once it has
10 been demonstrated by a preponderance of evidence that an activity
11 protected by this division was a contributing factor in the alleged
12 retaliation against a former or current employee, the burden of
13 proof shall be on the supervisor, manager, or regional center to
14 demonstrate by clear and convincing evidence that the alleged
15 action would have occurred for legitimate, independent reasons
16 even if the employee had not engaged in protected disclosures or
17 refused an illegal order. If the supervisor, manager, or regional
18 center fails to meet this burden of proof in a personnel action
19 against the employee in an administrative review, challenge, or
20 adjudication in which retaliation has been demonstrated to be a
21 contributing factor, the employee shall have a complete affirmative
22 defense in the personnel action.

23 (f) Nothing in this division shall be deemed to diminish the
24 rights, privileges, or remedies of an employee under any other
25 federal or state law or under any employment contract or collective
26 bargaining agreement.

27 4917. By April 1, 2011, the department shall prepare for
28 employees a written explanation of this division. The explanation
29 shall include, but need not be limited to, all of the following
30 information:

31 (a) Instructions on how to contact the department by mail,
32 telephone, e-mail, and fax.

33 (b) A general overview of improper regional center activities
34 and examples of three of the most common types of improper
35 regional center activities that may be reported to the department.

36 (c) An explanation of whistleblower protection available to
37 employees who report an improper regional center activity to the
38 department.

1 (d) The requirement that the department protect the anonymity
2 of a person who reports an improper regional center activity to the
3 department.

4 (e) The department's authority in connection with violations of
5 law discovered during an investigation of an improper regional
6 center activity.

7 (f) A description of the penalties imposed under Section 4916.

8 4918. (a) The department shall prepare for distribution to each
9 regional center in an electronic format a notice containing the
10 information in the written explanation prepared pursuant to Section
11 4917.

12 (b) By July 1, 2011, each regional center shall print and post
13 the notice distributed pursuant to subdivision (a) at its office or
14 offices in a location or locations where employee notices are
15 maintained. A regional center shall not edit the written text of the
16 notice, but may include its own introductory language in the notice,
17 if the language and the format selected do not alter the meaning
18 of the notice.

19 (c) In addition to the posted notice, on July 1, 2011, and annually
20 thereafter, every regional center shall send the information
21 contained in the notice by e-mail to its employees who have
22 authorized access to e-mail from the regional center.

23 (d) The department shall post the information described in
24 Section 4917 on its Internet Web site.

25 4919. (a) Nothing in this division shall limit or otherwise
26 modify the right of a regional center employee to pursue any other
27 civil remedy.

28 (b) Nothing in this division shall be construed to afford civil
29 service employment rights on a regional center employee.

30 (c) Nothing in this division shall affect or impede a consumer's
31 rights under the Lanterman Developmental Disabilities Services
32 Act (Division 4.5 (commencing with Section 4500)).

33 ~~SEC. 5.~~

34 *SEC. 4.* Section 5328 of the Welfare and Institutions Code is
35 amended to read:

36 5328. All information and records obtained in the course of
37 providing services under Division 4 (commencing with Section
38 4000), Division 4.1 (commencing with Section 4400), Division
39 4.5 (commencing with Section 4500), Division 5 (commencing
40 with Section 5000), Division 6 (commencing with Section 6000),

1 or Division 7 (commencing with Section 7100), to either voluntary
2 or involuntary recipients of services shall be confidential.
3 Information and records obtained in the course of providing similar
4 services to either voluntary or involuntary recipients prior to 1969
5 shall also be confidential. Information and records shall be
6 disclosed only in any of the following cases:

7 (a) In communications between qualified professional persons
8 in the provision of services or appropriate referrals, or in the course
9 of conservatorship proceedings. The consent of the patient, or his
10 or her guardian or conservator shall be obtained before information
11 or records may be disclosed by a professional person employed
12 by a facility to a professional person not employed by the facility
13 who does not have the medical or psychological responsibility for
14 the patient's care.

15 (b) When the patient, with the approval of the physician, licensed
16 psychologist, social worker with a master's degree in social work,
17 or licensed marriage and family therapist, who is in charge of the
18 patient, designates persons to whom information or records may
19 be released, except that nothing in this article shall be construed
20 to compel a physician, licensed psychologist, social worker with
21 a master's degree in social work, licensed marriage and family
22 therapist, nurse, attorney, or other professional person to reveal
23 information that has been given to him or her in confidence by
24 members of a patient's family. Nothing in this subdivision shall
25 be construed to authorize a licensed marriage and family therapist
26 to provide services or to be in charge of a patient's care beyond
27 his or her lawful scope of practice.

28 (c) To the extent necessary for a recipient to make a claim, or
29 for a claim to be made on behalf of a recipient for aid, insurance,
30 or medical assistance to which he or she may be entitled.

31 (d) If the recipient of services is a minor, ward, or conservatee,
32 and his or her parent, guardian, guardian ad litem, or conservator
33 designates, in writing, persons to whom records or information
34 may be disclosed, except that nothing in this article shall be
35 construed to compel a physician, licensed psychologist, social
36 worker with a master's degree in social work, licensed marriage
37 and family therapist, nurse, attorney, or other professional person
38 to reveal information that has been given to him or her in
39 confidence by members of a patient's family.

(e) For research, provided that the Director of Mental Health or the Director of Developmental Services designates by regulation, rules for the conduct of research and requires the research to be first reviewed by the appropriate institutional review board or boards. The rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

“ _____
Date

As a condition of doing research concerning persons who have received services from ____ (fill in the facility, agency or person), I, ____, agree to obtain the prior informed consent of such persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, and I further agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

Signed

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Committee on Rules or the Assembly Committee on Rules for the purposes of legislative investigation authorized by the committee.

1 (i) If the recipient of services who applies for life or disability
2 insurance designates in writing the insurer to which records or
3 information may be disclosed.

4 (j) To the attorney for the patient in any and all proceedings
5 upon presentation of a release of information signed by the patient,
6 except that when the patient is unable to sign the release, the staff
7 of the facility, upon satisfying itself of the identity of the attorney,
8 and of the fact that the attorney does represent the interests of the
9 patient, may release all information and records relating to the
10 patient except that nothing in this article shall be construed to
11 compel a physician, licensed psychologist, social worker with a
12 master's degree in social work, licensed marriage and family
13 therapist, nurse, attorney, or other professional person to reveal
14 information that has been given to him or her in confidence by
15 members of a patient's family.

16 (k) Upon written agreement by a person previously confined in
17 or otherwise treated by a facility, the professional person in charge
18 of the facility or his or her designee may release any information,
19 except information that has been given in confidence by members
20 of the person's family, requested by a probation officer charged
21 with the evaluation of the person after his or her conviction of a
22 crime if the professional person in charge of the facility determines
23 that the information is relevant to the evaluation. The agreement
24 shall only be operative until sentence is passed on the crime of
25 which the person was convicted. The confidential information
26 released pursuant to this subdivision shall be transmitted to the
27 court separately from the probation report and shall not be placed
28 in the probation report. The confidential information shall remain
29 confidential except for purposes of sentencing. After sentencing,
30 the confidential information shall be sealed.

31 (l) Between persons who are trained and qualified to serve on
32 multidisciplinary personnel teams pursuant to subdivision (d) of
33 Section 18951. The information and records sought to be disclosed
34 shall be relevant to the prevention, identification, management, or
35 treatment of an abused child and his or her parents pursuant to
36 Chapter 11 (commencing with Section 18950) of Part 6 of Division
37 9.

38 (m) To county patients' rights advocates who have been given
39 knowing voluntary authorization by a client or a guardian ad litem.
40 The client or guardian ad litem, whoever entered into the

1 agreement, may revoke the authorization at any time, either in
2 writing or by oral declaration to an approved advocate.

3 (n) To a committee established in compliance with Section
4 4070.

5 (o) In providing information as described in Section 7325.5.
6 Nothing in this subdivision shall permit the release of any
7 information other than that described in Section 7325.5.

8 (p) To the county mental health director or the director's
9 designee, or to a law enforcement officer, or to the person
10 designated by a law enforcement agency, pursuant to Sections
11 5152.1 and 5250.1.

12 (q) If the patient gives his or her consent, information
13 specifically pertaining to the existence of genetically handicapping
14 conditions, as defined in Section 125135 of the Health and Safety
15 Code, may be released to qualified professional persons for
16 purposes of genetic counseling for blood relatives upon request of
17 the blood relative. For purposes of this subdivision, "qualified
18 professional persons" means those persons with the qualifications
19 necessary to carry out the genetic counseling duties under this
20 subdivision as determined by the genetic disease unit established
21 in the State Department of Health Services under Section 125000
22 of the Health and Safety Code. If the patient does not respond or
23 cannot respond to a request for permission to release information
24 pursuant to this subdivision after reasonable attempts have been
25 made over a two-week period to get a response, the information
26 may be released upon request of the blood relative.

27 (r) When the patient, in the opinion of his or her psychotherapist,
28 presents a serious danger of violence to a reasonably foreseeable
29 victim or victims, then any of the information or records specified
30 in this section may be released to that person or persons and to
31 law enforcement agencies as the psychotherapist determines is
32 needed for the protection of that person or persons. For purposes
33 of this subdivision, "psychotherapist" means anyone so defined
34 within Section 1010 of the Evidence Code.

35 (s) (1) To the designated officer of an emergency response
36 employee, and from that designated officer to an emergency
37 response employee regarding possible exposure to HIV or AIDS,
38 but only to the extent necessary to comply with provisions of the
39 Ryan White Comprehensive AIDS Resources Emergency Act of
40 1990 (P.L. 101-381; 42 U.S.C. Sec. 201).

1 (2) For purposes of this subdivision, “designated officer” and
2 “emergency response employee” have the same meaning as these
3 terms are used in the Ryan White Comprehensive AIDS Resources
4 Emergency Act of 1990 (P.L. 101-381; 42 U.S.C. Sec. 201).

5 (3) The designated officer shall be subject to the confidentiality
6 requirements specified in Section 120980, and may be personally
7 liable for unauthorized release of any identifying information about
8 the HIV results. Further, the designated officer shall inform the
9 exposed emergency response employee that the employee is also
10 subject to the confidentiality requirements specified in Section
11 120980, and may be personally liable for unauthorized release of
12 any identifying information about the HIV test results.

13 (t) (1) To a law enforcement officer who personally lodges with
14 a facility, as defined in paragraph (2), a warrant of arrest or an
15 abstract of such a warrant showing that the person sought is wanted
16 for a serious felony, as defined in Section 1192.7 of the Penal
17 Code, or a violent felony, as defined in Section 667.5 of the Penal
18 Code. The information sought and released shall be limited to
19 whether or not the person named in the arrest warrant is presently
20 confined in the facility. This paragraph shall be implemented with
21 minimum disruption to health facility operations and patients, in
22 accordance with Section 5212. If the law enforcement officer is
23 informed that the person named in the warrant is confined in the
24 facility, the officer may not enter the facility to arrest the person
25 without obtaining a valid search warrant or the permission of staff
26 of the facility.

27 (2) For purposes of paragraph (1), a facility means all of the
28 following:

29 (A) A state hospital, as defined in Section 4001.

30 (B) A general acute care hospital, as defined in subdivision (a)
31 of Section 1250 of the Health and Safety Code, solely with regard
32 to information pertaining to a mentally disordered person subject
33 to this section.

34 (C) An acute psychiatric hospital, as defined in subdivision (b)
35 of Section 1250 of the Health and Safety Code.

36 (D) A psychiatric health facility, as described in Section 1250.2
37 of the Health and Safety Code.

38 (E) A mental health rehabilitation center, as described in Section
39 5675.

1 (F) A skilled nursing facility with a special treatment program
2 for chronically mentally disordered patients, as described in
3 Sections 51335 and 72445 to 72475, inclusive, of Title 22 of the
4 California Code of Regulations.

5 (u) Between persons who are trained and qualified to serve on
6 multidisciplinary personnel teams pursuant to Section 15610.55,
7 15753.5, or 15761. The information and records sought to be
8 disclosed shall be relevant to the prevention, identification,
9 management, or treatment of an abused elder or dependent adult
10 pursuant to Chapter 13 (commencing with Section 15750) of Part
11 3 of Division 9.

12 (v) The amendment of subdivision (d) enacted at the 1970
13 Regular Session of the Legislature does not constitute a change
14 in, but is declaratory of, the preexisting law.

15 (w) This section shall not be limited by Section 5150.05 or 5332.

16 (x) (1) When an employee is served with a notice of adverse
17 action, as defined in Section 19570 of the Government Code, the
18 following information and records may be released:

19 (A) All information and records that the appointing authority
20 relied upon in issuing the notice of adverse action.

21 (B) All other information and records that are relevant to the
22 adverse action, or that would constitute relevant evidence as
23 defined in Section 210 of the Evidence Code.

24 (C) The information described in subparagraphs (A) and (B)
25 may be released only if both of the following conditions are met:

26 (i) The appointing authority has provided written notice to the
27 consumer and the consumer's legal representative or, if the
28 consumer has no legal representative or if the legal representative
29 is a state agency, to the clients' rights advocate, and the consumer,
30 the consumer's legal representative, or the clients' rights advocate
31 has not objected in writing to the appointing authority within five
32 business days of receipt of the notice, or the appointing authority,
33 upon review of the objection has determined that the circumstances
34 on which the adverse action is based are egregious or threaten the
35 health, safety, or life of the consumer or other consumers and
36 without the information the adverse action could not be taken.

37 (ii) The appointing authority, the person against whom the
38 adverse action has been taken, and the person's representative, if
39 any, have entered into a stipulation that does all of the following:

1 (I) Prohibits the parties from disclosing or using the information
2 or records for any purpose other than the proceedings for which
3 the information or records were requested or provided.

4 (II) Requires the employee and the employee's legal
5 representative to return to the appointing authority all records
6 provided to them under this subdivision, including, but not limited
7 to, all records and documents from any source containing
8 confidential information protected by this section, and all copies
9 of those records and documents, within 10 days of the date that
10 the adverse action becomes final except for the actual records and
11 documents or copies thereof that are no longer in the possession
12 of the employee or the employee's legal representative because
13 they were submitted to the administrative tribunal as a component
14 of an appeal from the adverse action.

15 (III) Requires the parties to submit the stipulation to the
16 administrative tribunal with jurisdiction over the adverse action
17 at the earliest possible opportunity.

18 (2) For the purposes of this subdivision, the State Personnel
19 Board may, prior to any appeal from adverse action being filed
20 with it, issue a protective order, upon application by the appointing
21 authority, for the limited purpose of prohibiting the parties from
22 disclosing or using information or records for any purpose other
23 than the proceeding for which the information or records were
24 requested or provided, and to require the employee or the
25 employee's legal representative to return to the appointing authority
26 all records provided to them under this subdivision, including, but
27 not limited to, all records and documents from any source
28 containing confidential information protected by this section, and
29 all copies of those records and documents, within 10 days of the
30 date that the adverse action becomes final, except for the actual
31 records and documents or copies thereof that are no longer in the
32 possession of the employee or the employee's legal representatives
33 because they were submitted to the administrative tribunal as a
34 component of an appeal from the adverse action.

35 (3) Individual identifiers, including, but not limited to, names,
36 social security numbers, and hospital numbers, that are not
37 necessary for the prosecution or defense of the adverse action,
38 shall not be disclosed.

39 (4) All records, documents, or other materials containing
40 confidential information protected by this section that has been

1 submitted or otherwise disclosed to the administrative agency or
2 other person as a component of an appeal from an adverse action
3 shall, upon proper motion by the appointing authority to the
4 administrative tribunal, be placed under administrative seal and
5 shall not, thereafter, be subject to disclosure to any person or entity
6 except upon the issuance of an order of a court of competent
7 jurisdiction.

8 (5) For purposes of this subdivision, an adverse action becomes
9 final when the employee fails to answer within the time specified
10 in Section 19575 of the Government Code, or, after filing an
11 answer, withdraws the appeal, or, upon exhaustion of the
12 administrative appeal or of the judicial review remedies as
13 otherwise provided by law.

14 (y) To the State Department of Developmental Services for the
15 purpose of conducting an investigation authorized pursuant to
16 Division 4.8 (commencing with Section 4910).

17 ~~SEC. 6.~~

18 *SEC. 5.* No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.